IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.973 OF 2007
IN
SECOND APPEAL ST.NO.6747 OF 2007

Priyanka P.Kuveskar ...Applicant

vs.

Shankar Vithu Kuveskar ...Respondent

Mr.Rajeev Deokar for the Applicant

CORAM: A.S.OKA,J.
DATE : NOVEMBER 27,2007.

P.C.:

1. Heard Advocate for the Applicant. This is an application for condonation of delay in preferring the Second Appeal. The Applicants are the opponents in an Application filed by the Respondent herein for grant of heirship certificate under the Bombay Regulation No.VIII of 1827. The said application was allowed by the trial court. An Appeal against the said order was preferred by the Respondent. The Appeal has been allowed and the heirship certificate issued by the trial court has been ordered to be amended.

2. In view of section 390 of the Indian Succession Act,1925, the provisions of section 388 of the said Act will apply to the certificates granted under the said Regulation and to the applications made for grant of heirship certificates made under the said regulation. Therefore, in view of sub section

2 of section 388 of the said Act of 1925, an Appeal is provided to the District Judge against the order passed by the Court inferior to the District Judge. Under sub section 3 of section 388, an order of the District Judge in an Appeal from Order of the inferior court is made subject to revision by the High Court. Therefore, the present Second Appeal is not maintainable. As the Second Appeal is not maintainable, application for condonation of delay cannot be entertained. Accordingly, application is rejected.

3. However, rejection of this application will not prevent the Applicant from adopting appropriate remedy for challenging the impugned Judgment and Order in accordance with law. The certified copies filed along with the Second Appeal shall be returned to the Applicant.

JUDGE

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